

## REMARKS

In the Office Action issued on November 9, 2007, the Examiner rejected claims 13, 17, 21 through 25, 28 and 29 under 35 U.S.C. 102(b) as being anticipated by Moll (United States Patent Number 6,287,334), and rejected claims 26 and 27 under 35 U.S.C. 103(a) as being unpatentably obvious over Moll in view of Park (United States Patent Number 6,669,724).

The Applicants have fully considered the Office Action and cited references and submit this Reply and Amendment in response to the Examiner's rejections. Reconsideration of the application for patent is requested.

### Request for Continued Examination

The Applicants have submitted this Reply and Amendment along with an appropriate Request for Continued Examination. As such, the Applicants respectfully request that the Examiner withdraw the finality of the outstanding Office action, enter this Reply and Amendment, and reconsider the application for patent in light of the amendments and remarks made herein.

### Amendments to the Claims

The Applicants have made various amendments to independent Claim 13 in order to more particularly point out and distinctly claim that which they regard as the invention, and to further distinguish Moll. For example, Claim 13 now explicitly requires that each of the leaflets cooperatively define a pocket with a portion of the bodily passage in which the prosthesis is deployed.

The amendments made to Claim 13 are fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in Figures 8, 13, and 21 and the accompanying discussion in the specification.

The Applicants have made various amendments to independent Claim 17 in order to more particularly point out and distinctly claim that which they regard as the invention, and to further distinguish Moll. For example, Claim

17 now explicitly requires that the longitudinal attachment struts be oriented substantially longitudinally with the longitudinal axis of the prosthesis.

The amendments made to Claim 17 are fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in Figures 13, 14, 16, 18 and 21, and the accompanying discussion in the specification.

The Applicants have made various amendments to independent Claim 22 in order to more particularly point out and distinctly claim that which they regard as the invention, and to further distinguish Moll. For example, Claim 22 now explicitly requires that the first and second commissures be disposed substantially opposite each other with respect to the longitudinal axis of the support structure.

The amendments made to Claim 22 are fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in Figures 3, 9, and 21, and the accompanying discussion in the specification.

The Applicants have made various amendments to independent Claim 23 in order to more particularly point out and distinctly claim that which they regard as the invention, and to further distinguish Moll. For example, Claim 23 now explicitly requires that the first and second commissures be disposed substantially opposite each other with respect to the longitudinal axis of the support structure.

The amendments made to Claim 23 are fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in Figures 3, 9, and 21, and the accompanying discussion in the specification.

The Applicants have amended independent Claim 24 in order to more particularly point out and distinctly claim that which they regard as the invention, and to further distinguish Moll. For example, Claim 24 now explicitly requires that the support structure comprise "a series of proximal bends comprising substantially opposing commissural points for attachment of the plurality of leaflets..."

The amendments made to Claim 24 are fully supported by the application as filed; no new matter has been introduced. Exemplary support

is found in Figures 3, 9, and 21, and the accompanying discussion in the specification.

#### Claim Rejections Under 35 U.S.C. 102(b)

In the subject Office action, the Examiner rejected claims 13, 17, 21 through 25, 28 and 29 under 35 U.S.C. 102(b) as being anticipated by Moll (United States Patent Number 6,287,334).

As a preliminary matter, the Applicants note that Claim 29 has previously been cancelled. The rejection of this claim is, therefore, moot.

The Applicants have herein cancelled Claim 28. The rejection of this claim is, therefore, moot.

As amended herein, Claim 13 requires that "each of the plurality of leaflets is configured to cooperatively define with a portion of the bodily passage a pocket..." Moll doesn't describe or suggest such pockets. While Moll does disclose pockets that are disposed *between* the leaflets and the wall of the bodily passage, it does not disclose or suggest a pocket that is cooperatively defined by a leaflet and a portion of the bodily passage. Indeed, the Moll device includes pockets that are formed between sheets of the valve material (see Fig. 6 and the description of element 22 - 'temporary blood storage area' at the top of column 4).

Accordingly, Moll does not describe each and every limitation of claim 13 and cannot, therefore, properly serve as an anticipatory reference under 35 U.S.C. 102. Withdrawal of this rejection is respectfully requested.

As amended herein, Claim 17 requires "one or more longitudinal attachment struts oriented substantially longitudinally with respect to the longitudinal axis of said prosthesis..." Also, the claim now requires that the one or more longitudinal attachment struts comprise "first and second substantially parallel longitudinal attachment struts..."

Thus, as amended herein, Claim 17 requires first and second longitudinal attachment struts that are substantially parallel to each other and that are oriented substantially longitudinally with respect to the longitudinal axis of the prosthesis. Moll doesn't describe or suggest such longitudinal attachment struts. In contrast, as best illustrated in Figure 1,

no pair of longitudinal attachment struts in the Moll device are disposed parallel to each other and substantially longitudinal with a longitudinal axis of the device. Indeed, all attachment struts of the Moll device run askew to the longitudinal axis of the device.

Accordingly, Moll does not describe each and every limitation of claim 17 and cannot, therefore, properly serve as an anticipatory reference under 35 U.S.C. 102. Withdrawal of this rejection is respectfully requested.

Claim 21 depends from claim 17. As such, Moll also fails to describe each and every limitation of this claim. Withdrawal of this rejection is respectfully requested.

As amended herein, each of claims 22 and 23 requires "a first and a second commissure...." that are "disposed on substantially opposing sides of said prosthesis...." Moll does not describe or suggest a support frame that defines commissures for the attachment of leaflets that are positioned on the frame in this manner.

While the Examiner notes that "the meaning of the word 'commissure' is a simple junction" and that "therefore, Figure 1 clearly discloses a junction," the Applicants note that Moll fails to disclose or suggest commissures disposed on substantially opposing sides of the prosthesis. Indeed, as best illustrated in Figure 1, the side of the frame that is opposite any given commissure in the Moll device is *completely free of any type of junction*.

As discussed in the specification of the current application for patent, this positioning of the commissure points is considered critical as it provides an advantageous leaflet contact area and pocket geometry (see, e.g., paragraphs 0042 through 0044).

Similarly, claim 24 requires "a support structure comprising a series of proximal bends comprising substantially opposing commissural points for the attachment of the plurality of leaflets." Again, Moll lacks any discussion, illustration, or suggestion of any similar feature. As such, Moll fails to describe each and every limitation of this claim as well. Withdrawal of this rejection is, therefore, requested.

Claims 25, 26 and 27 depends from claim 24 and is, therefore, distinguished from Moll based on its failure to disclose the limitation discussed above. Accordingly, Moll fails to describe each and every

limitation of this claim as well. Withdrawal of this rejection is, therefore, requested.

Claim Rejections Under 35 U.S.C. 103(a)

The Examiner rejected claims 26 and 27 as being unpatentably obvious over Moll in view of Park. The Applicants respectfully assert that the Examiner has failed to establish a *prima facie* case of obviousness because this asserted combination of references fails to teach each and every limitation of these claims.

Each of claims 26 and 27 depends from claim 24 and, as such, requires "a support structure comprising a series of proximal bends comprising substantially opposing commissural points for the attachment of the plurality of leaflets." As described above, Moll fails to teach or suggest a support frame with commissural points for the attachment of the plurality of leaflets.

A careful review of Park reveals that it, too, fails to disclose "a support structure comprising a series of proximal bends comprising commissural points for the attachment of the plurality of leaflets." As a result, Park fails to remedy the defect of Moll and, consequently, the asserted combination of references fails to teach or suggest each and every limitation of these claims. These references cannot, therefore, properly serve as a basis of an obviousness rejection of claims 26 and 27.

The Applicants respectfully request that the Examiner withdraw this rejection of the claims.

## CONCLUSION

The Applicants have fully responded to the rejections listed by the Examiner in the November 9, 2007 Office Action. A Notice of Allowability relating to all claims currently under consideration is appropriate and is respectfully requested by the Applicants.

Should the Examiner have any questions regarding this Reply and Amendment, or the remarks contained herein, the undersigned attorney would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,

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